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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

STEVEN HAIRL WILHELM,

Plaintiff,

vs.

1: 08 CV 01211 YNP GSA (PC)

ORDER RE MOTIONS (DOCS 9, 10)

KEN CLARK,

Defendant.

Plaintiff is a state prisoner proceeding pro se in a civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff has consented to magistrate judge jurisdiction pursuant to 28 U.S.C. § 636(c)(1). Pending before the Court Plaintiff's motions for the appointment of counsel and for a certificate of appealability.

On March 23, 2009, this action was dismissed with prejudice for failure to state a claim upon which relief could be granted. On April 30, 2009, Plaintiff filed a motion for certificate of

1 appealability and a motion for the appointment of counsel. On June 2, 2009, an order was
2 entered by the Ninth Circuit, dismissing Plaintiff's appeal for lack of jurisdiction. This Court
3 received the mandate on July 27, 2009. Plaintiff's motions are therefore moot.

4 Accordingly, IT IS HEREBY ORDERED that Plaintiff's motions for the appointment of
5 counsel and for a certificate of appealability are denied as moot.

6
7 IT IS SO ORDERED.

8 **Dated: October 13, 2009**

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE